

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RAQ BEY,

Plaintiff,

v.

CITY OF EMERYVILLE POLICE
DEPARTMENT,

Defendant.

Case No. [3:18-cv-02628-JD](#)

**ORDER RE MOTION TO SET ASIDE
ENTRY OF DEFAULT**

Re: Dkt. No. 13

Pro se plaintiff Bey filed this action in state court on March 20, 2018. Dkt. No. 1. Defendant removed to this Court on May 4, 2018 and asks the Court to set aside the state court's entry of default. Dkt. No. 13. Plaintiff was served with notice of defendant's motion and request for judicial notice on May 23, 2018. Dkt. No. 16. His deadline to oppose the motion was June 6, 2018. As of June 25, 2018, plaintiff has not filed any response.

The Court **GRANTS** defendant's motion to set aside the state court's entry of default. The record before the Court indicates that the defendant was not properly served until April 16, 2018. *See* Dkt. Nos. 1, 14. Defendant then had 30 days to respond to the complaint under California Code of Civil Procedure 412.20(a), but default was entered on May 3, 2018. Consequently, the Court sets aside the entry of default under Federal Rule of Civil Procedure 55(c). The hearing that was set for June 28, 2018 is **VACATED**.

IT IS SO ORDERED.

Dated: June 25, 2018



JAMES DONATO
United States District Judge